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any activity described in this paragraph (a) without the prior approval of this Board pursuant to paragraph (b) of this section, unless—

- (1) The holding company received a rating of satisfactory or above prior to January 1, 2008, or a composite rating of "1" or "2" thereafter, in its most recent examination, and is not in a troubled condition as defined in §238.72, and the holding company does not propose to commence the activity by an acquisition (in whole or in part) of a going concern; or
- (2) The activity is permissible under authority other than section 10(c)(2)(F)(i) of the HOLA without prior notice or approval. Where an activity is within the scope of both $\S238.53$ and this section, the procedures of $\S238.53$ shall govern.
- (b) Procedures for applications. Applications to commence any activity prescribed under paragraph (a) of this section shall be filed with the appropriate Reserve Bank on the designated form. The Board must act upon such application according to the procedures of §238.53(d), (e), and (f).
- (c) Factors considered in acting on applications. In evaluating an application filed under paragraph (b) of this section, the Board shall consider whether the performance by the applicant of the activity can reasonably be expected to produce benefits to the public (such as greater convenience, increased competition, or gains in efficiency) that outweigh possible adverse effects (such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound financial practices). This consideration includes an evaluation of the financial and managerial resources of the applicant, including its subsidiaries, and of any company to be acquired, and the effect of the proposed transaction on those resources.

Subpart G—Financial Holding Company Activities

§238.61 Scope.

Section 10(c)(2)(H) of the HOLA (12 U.S.C. 1467a(c)(2)(H)) permits a savings and loan holding company to engage in activities that are permissible for a financial holding company if the savings

and holding company meets the criteria to qualify as a financial holding company and complies with all of the requirements applicable to a financial holding company under sections 4(1) and 4(m) of the BHC Act as if the savings and loan holding company was a bank holding company. This subpart provides the requirements and restrictions for a savings and holding company to be treated as a financial holding company for the purpose of engaging in financial holding company activities. This subpart does not apply to savings and loan holding companies described in section 10(c)(9)(C) of the HOLA (12 U.S.C. 1467a(c)(9)(C)).

§ 238.62 Definitions.

For the purposes of this subpart:

- (a) Financial holding company activities refers to activities permissible under section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)) and §225.86 of this chapter.
 - (b) [Reserved]

§ 238.63 Requirements to engage in financial holding company activities.

- (a) *In general*. In order for a savings and loan holding company to engage in financial holding company activities:
- (1) The savings and loan holding company and all depository institutions controlled by the savings and loan holding company must be and remain well capitalized:
- (2) The savings and loan holding company and all depository institutions controlled by the savings and loan company must be and remain well managed; and
- (3) The savings and loan holding company must have made an effective election to be treated as a financial holding company.

§ 238.64 Election required.

- (a) In general. Except as provided below, a savings and loan holding company that wishes to engage in financial holding company activities must have an effective election to be treated as a financial holding company.
- (b) Activities performed under separate HOLA authority. A savings and loan holding company that conducts only the following activities is not required